
**Public Safety & Emergency
Preparedness Committee**

HB 2763

Brief Description: Concerning the drug offender sentencing alternative.

Sponsors: Representatives O'Brien, Goodman, Rodne and Hurst; by request of Department of Corrections.

Brief Summary of Bill

- Requires that an offender participating in the prison-based Drug Offender Sentencing Alternative program to spend one-half of the midpoint of the standard sentencing range on community custody following incarceration.

Hearing Date: 1/30/08

Staff: Yvonne Walker (786-7841).

Background:

The Drug Offender Sentencing Alternative (DOSA) is an alternative sentencing program that allows a court to waive imposition of an offender's sentence within the standard sentencing range. There are two types of DOSA programs: prison-based DOSA and residential-based DOSA. Courts have the option to sentence a nonviolent offender with a substance abuse addiction to either of the DOSA programs.

An offender is eligible for the prison-based DOSA program if:

- the offender has not been convicted of a violent offense in the last 10 years;
- the offender has no current or prior convictions for a sex offense;
- the offender has no current convictions for a driving under the influence offense;
- the standard sentence range for the current offense is greater than one year for the offense that the offender is charged with;
- the offender is not subject to a deportation detainer or order;
- the offender has not received a DOSA sentence more than once in the prior 10 years before the current offense; and

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- the offender has committed a Violation of the Uniform Controlled Substance Act (VUSCA) where the offense only involves a small quantity of drugs as determined by the court.

If the court determines that a DOSA sentence is appropriate for an offender then it may impose an alternative sentence that includes confinement in a state facility for one-half of the midpoint of the standard sentencing range. While in confinement, the offender must complete a substance abuse assessment and receive, within available resources, substance abuse treatment and counseling.

The offender must spend the remainder of the midpoint of the standard sentencing range in community custody following incarceration. The community custody portion of the sentence must include alcohol and substance abuse treatment which has been approved by the Division of Alcohol and Substance Abuse of the Department of Social and Health Services. Offenders may also be required to adhere to crime related prohibitions and affirmative conditions as part of their sentence, as well as pay a \$30 per month fee while on community custody to offset the cost of monitoring.

The courts have been inconsistent in how much community custody is ordered following an offender's period of incarceration. For example, in the case where the mid-point of the standard sentencing range is 12 months, an offender would be required to spend 12 months in confinement (the statute requires one-half of the midpoint of the standard range in confinement or 12 months, which is greater). Following incarceration, an offender is required to spend the "remainder of the midpoint" of the standard sentencing range on community custody. Some courts are interpreting this to mean six months on community custody and other courts are interpreting this as no community custody because "the remainder" of one-half of the midpoint of the standard sentencing range (six months) was used to raise the offender's confinement time up to the 12 months.

Summary of Bill:

The provision governing the imposition of community custody for offenders on a prison-based DOSA is amended and clarified. Following an offender's period of confinement, he or she must spend one-half of the midpoint (instead of the "remainder" of the midpoint) of the standard sentencing range on community custody following incarceration.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.